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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/263,005

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YOICHI YAMAGISHI

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1295

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08/09/2004

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EXAMINER

NGUYEN, HUY THANH

ART UNIT

PAPER NUMBER

2616

15

DATE MAILED: 08/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/263,005

Applicant(s)

YAMAGISHI ET AL.

Examiner

HUY T NGUYEN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 7-33 is/are pending in the application.
- 4a) Of the above claim(s) 25-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Art unit has been changed from 2615 to **2616**.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 19-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Kerns et al (5,367,332).

Regarding claims 19-24, Kerns disclose a medium for storing a program for control method for image processing (Fig. 1 and 2).

Applicant argue that claims 19 require the limitation of claim 13, claims 20 require the limitation of claim 14, claims 21 require the limitation of claim 15, claims 22 require the limitation of claim 16, claims 23 require the limitation of claim 17 and claims 24 require the limitation of claim 18. In response, it is noted that claim 19 call for a medium for storing a program not for a control method because there is no positive steps of control method generated by the stored program recited in the body of claims 13 and 19 therefore the phrase "control method " of an image processing apparatus reciting in the preamble of claim 19 without setting forth in the body of claims is mere

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intent use and is not weighted for patentability. Further it is noted that the recitation control method of an image processing of claims 19 is met with control method of an image processing apparatus that taught by Kerns reference because Kern teaches a stored program for implementing a control method for an image processing apparatus. Similarly, the responses to applicant argument of claims 20,21,22,23 and 24 can be seen in the response of claims 19.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1,3,7, 13,14,15-16,19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stempeck (4,571,627) in view of Minoura et al (4,812,922) and Stevens (6,486,916).

Regarding claims 1, 3,7,13, 14,15 and 16, Stempeck discloses an image processing apparatus (Fig. 1, column 2, lines 53 t column 3, lines 20)) for recording, and playing back and displaying a sensed still image and/or moving image on a recording medium , comprising: an image sensing device (16) , a memory device (26) , a control device (34) , an optical finder(38) , a display device having at least an electronic view finder function (20) and a review function (review mode) of playing back and displaying the sensed image immediately after an image sensing operation, an electronic view finder setting device adapted to turn on and off said electronic view finder function, and a review setting device adapted to turn on and off said review function, wherein said control device stores an image signal output from said image sensing device in said memory device (26)while said display device is disabled, enables said display device immediately after the storage in the case that said review function is turned on, and plays back and displays the image signal stored in said memory device on said display device regardless of whether said electronic view finder function is turned on or off (column 5, lines 45-56, column 7, lines 20-60).

Stempeck fails to teaches a control means for setting a review function prior to sensing image . Minoura teaches a recording apparatus having means for setting a review function recording mode prior to receiving image and to enable of recording the image in a memory and for reviewing the image after image has been stored n the memory (Fig. 1,column 6, lines 15-25).

It would have been obvious to one of ordinary skill in the art to modify Stempeck with Minoura by using a review setting means as taught by Minoura with the

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apparatus thereby enhancing the function of the apparatus of Stempeck to provide more convenience the user in selecting image for storing .

Stempek as modified with Minoura fails to teaches a display setting means for enabling the display device for displaying the image stored in the memory means .

Stevens teaches a camera having a control means for enabling a display deice for displaying the play image stored in the memory means (column 7, lines 15-40). It would have been obvious to one of ordinary skill in the art to modify Stempeck as modified with Minoura by using the display device setting means as taught Stevens with the apparatus of Stempeck as modified with Minoura for setting the display device for enabling the display device to display the stored image in order to conserve the power of the apparatus .

Further for claims 4, 7,14,15 and 16, Stempeck as modified with Minoura further teaches display image for a predetermined time since the user can select the display of image for a predetermined time (see Minoura , column 6, lines 15-20) .

Regarding claims 19-22, Stempeck as modified with Minoura and Stevens further teaches the use of a medium for storing a program to implement a control method as recited in claim 18 since Stempeck, Minoura and Stevens teach controllers control the operation of the apparatus based on instruction stored in the controllers.

6. Claims 9,11,17, 18 and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stempeck in view of Minoura and Stevens as applied to claims, further un view of Kinoshita (4,740,826).

Regarding claims 9,11,17 and 18, Stempeck discloses an image processing apparatus (Fig. 1, column 2, lines 53 t column 3, lines 20)) for recording, and playing back and displaying a sensed still image and/or moving image on a recording medium , comprising: an image sensing device (16) , a memory device (26) , a control device (34) , an optical finder(38) , a display device having at least an electronic view finder function (20) and a review function (review mode) of playing back and displaying the sensed image immediately after an image sensing operation, an electronic view finder setting device adapted to turn on and off said electronic view finder function, and a review setting device adapted to turn on and off said review function, wherein said control device stores an image signal output from said image sensing device in said memory device (26) while said display device is disabled, enables said display device immediately after the storage in the case that said review function is turned on, and plays back and displays the image signal stored in said memory device on said display device regardless of whether said electronic view finder function is turned on or off (column 5, lines 45-56, column 7, lines 20-60).

Stempeck fails to teaches a control means for setting a review function prior to sensing image . Minoura teaches a recording apparatus having means for setting a review function recording mode prior to receiving image and to enable of recording

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the image in a memory and for reviewing the image after image has been stored in the memory (Fig. 1, column 6, lines 15-25).

It would have been obvious to one of ordinary skill in the art to modify Stempeck with Minoura by using a review setting means as taught by Minoura with the apparatus of Stempeck thereby enhancing the function of the apparatus of Stempeck to provide more convenience to the user in selecting image for storing.

Stempeck as modified with Minoura fails to teach a display setting means for enabling the display device for displaying the image stored in the memory means. Stevens teaches a camera having a control means for enabling a display device for displaying the play image stored in the memory means (column 7, lines 15-40). It would have been obvious to one of ordinary skill in the art to modify Stempeck as modified with Minoura by using the display device setting means as taught Stevens with the apparatus of Stempeck as modified with Minoura for setting the display device for enabling the display device to display the stored image in order to conserve the power of the apparatus.

Stempeck fails to teach recording images from the memory on a recording medium. Kinoshita teaches means for recording stored image from a memory to a recording medium (external recording mode). It would have been obvious to one of ordinary skill in the art to modify Stempeck with Kinoshita by using Teaching Kinoshita for incorporating means for recording the image on a recording medium thereby enhancing dubbing capacity of the apparatus of Stempeck.

Regarding claims 23 and 24, Stempeck as modified with Minoura , Stevens and Kinoshita further teaches the use of a medium for storing a program to implement a control method as recited in claim 18 since Stempeck, Minoura , Stevens and Kinoshita teach controllers to control the operation of the apparatus based on instruction from the controller .

7. Claims 2,4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stempeck in view of Minoura and Stevens as applied to claims 1,3,5 and 7 above, further in view of Fellegara et al (5,845,166).

Stempeck further teaches that display means is a LCD but fails to specifically teaches that the LCD is a LCD backlight of claims 2,4 and 8. However, it is note that using a LCD backlight is well known in the art as taught by Fellegara et al (column 9, lines 37-41). Therefore, it would have bee obvious to one of ordinary skill in the art to modify Stempeck as modified with Minoura and Stevens with Fellegara by using a LCD having a backlight as an alternative for the LCD of Stempeck and setting the backlight to be disable when the backlight is unnecessary in the operation of the apparatus in order to reduce the power consumption since Stevens teaches that power supply means can be modified to supplies part of the apparatus with separate lines and the line can be cut of from part to unnecessary part to reduce power consumption (See Stevens, column 7).

8. Claims 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stempeck in view of Minoura and Stevens and Kinoshita as applied to claims, 9 and 11 above , further in view of Fellegara et al (5,845,166).

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Stempeck further teaches that display means is a LCD but fails to specifically teach that the LCD is a LCD backlight as being recited in claims 10 and 12 .

However, it is note that using a LCD backlight is well known in the art as taught by Fellegara et al (column 9, lines 37-41). Therefore, it would have bee obvious to one of ordinary skill in the art to modify Stempeck as modified with Minoura and Stevens with Fellegara by using a LCD having a backlight as an alternative for the LCD of Stempeck and setting the backlight to be disable when the backlight is unnecessary in the operation of the apparatus in order to reduce the power consumption since Stevens teaches that power supply means can be modified to supplies part of the apparatus with separate lines and the line can be cut of from part to unnecessary part to reduce power consumption (See Stevens, column 7).

Response to Arguments

9. Applicant's arguments filed 26 May 2004 have been fully considered but they are not persuasive.

Applicant argues that that the references do not teaches a coordinate of the display device and review setting device. In response, the examiner disagrees. It is noted that Minoura teaches a control means for setting review mode prior to recording image and when an image has been recorded in a memory device, control means enabling the display device for displaying the recorded image. It is clear that Minoura teaches a coordinate of the display device and the review device.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY T NGUYEN whose telephone number is (703) 305-4775. The examiner can normally be reached on 8:30AM -6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Christensen can be reached on (703) 308-9644. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

H.N


HUY NGUYEN
PRIMARY EXAMINER